

**Testimony of  
Chairman James J. Hoecker  
Federal Energy Regulatory Commission  
Before the  
Committee on Energy and Natural Resources  
United States Senate**

**September 14, 2000**

Mr. Chairman and Members of the Committee:

I am pleased to be here to testify at today's hearing on proposals to move Alaska's North Slope natural gas to market, a matter of national importance. The potential construction of facilities to transport Alaska North Slope natural gas to consumers presents a significant opportunity to bolster our growing energy economy.

Much has changed since 1976 when Congress enacted the Alaska Natural Gas Transportation Act (ANGTA) to establish a mechanism for the President to designate a natural gas pipeline route to deliver Alaska natural gas to the Lower 48 States. The natural gas commodity price is no longer regulated. The interstate pipeline grid is now highly integrated, causing natural gas prices across the country to converge.

The natural gas industry has become more efficient and innovative while maintaining a high level of reliability and price stability. In administering the Natural Gas Act, the Commission has over the last 15 years moved increasingly to policies that

permit markets to decide, when feasible and in the public interest, whether pipeline projects should be built, and how they should be priced.

At the time of the enactment of ANGTA, the regulatory world was a very different place than it is currently. The passage of time, technological changes, and other legal, economic, and even social changes will place any new or renewed proposal to construct and operate a pipeline, including a proposal to transport Alaska North Slope natural gas, in a different light. The Commission, Congress, and pipeline proponents must consider whether some of the questions answered 20 years ago could have different answers today. Below I review the background on the Alaska Natural Gas Transportation System (ANGTS) as it existed more than 20 years ago, and the issues that would need to be addressed in considering proposals to transport natural gas from the North Slope of Alaska.

## **I. Background on the Alaska Natural Gas Transportation System**

In the 1970's, the Nation faced severe energy shortages. As one response, the President and Congress focused on the development of the abundant oil and natural gas reserves in the Prudhoe Bay area on the Alaskan Arctic Coast. The first step was the enactment of legislation to authorize the construction of the Trans-Alaska Pipeline System (TAPS), which transports North Slope crude oil to the port of Valdez for shipment to California and other Lower 48 markets.

Construction of TAPS was marred by contentious regulatory overlaps among various federal agencies, delays and substantial cost overruns. In 1976, when Congress

and the President were considering development of the Prudhoe Bay natural gas resource, a conscious effort was made to avoid the problems that had plagued TAPS. As a result, Congress and the President devised ANGTA, which established a mechanism for the President to designate a route for a natural gas pipeline to bring Alaskan natural gas to the Lower 48 States.

In 1977, President Carter designated the route and selected the project sponsors for construction of the ANGTS, running 4,787 miles from Prudhoe Bay, south to near Fairbanks, and then southeast along the route of the Alaska-Canadian highway to near Calgary, Alberta, where it would split into two legs, one continuing to California in the West, and the other to Illinois in the Midwest. I have attached to my testimony a map showing this route. The ANGTS project was divided among a number of project sponsors which were granted exclusive franchises for their respective segments.

The President's designation of the ANGTS route, and its construction and operation entities, was closely coordinated with the government of Canada and was issued following adoption of an Agreement Between The United States And Canada On Principles Applicable To A Northern Natural Gas Pipeline (Agreement on Principles). Pursuant to the Agreement, Canada enacted the Northern Pipeline Act, which is similar to ANGTA.

On December 16, 1977, the Commission issued a conditional certificate under ANGTA and the Natural Gas Act to designate project sponsors as set forth in the President's Decision and Report to Congress on the Alaskan Natural Gas Transportation

System (President's Decision) issued in September 1977. This conditional certificate, which authorized the project sponsors to construct and operate the pipeline system to transport gas from Alaska's North Slope to the Lower 48 States, was actually the initial step in the process of issuing a more detailed final certificate. The conditional certificate was followed by extensive procedures to establish further conditions for the project, including the design specifications and initial system capacity of the Alaskan segment of the ANGTS and an interim rate of return mechanism applicable to the segments of the ANGTS located in the United States.

The ANGTS sponsors, in order to facilitate financing for what would be the largest privately financed construction project in U.S. history, sought to build the project in two phases. In Phase 1, or the "Prebuild," 1,512 miles would be built (roughly one-third of the total), bringing Canadian gas (until the pipeline could be completed to Alaska) from Alberta to Stanfield, Oregon in the Western Leg, and to Ventura, Iowa in the Eastern Leg. In Phase II, the system would be completed to connect the Phase I sections to the North Slope .

By 1982, construction of Phase I had been completed. This approximately 1,500-mile segment, shaped like an inverted Y, continues to deliver large volumes of Canadian gas from near Calgary to the United States.

Almost contemporaneously with the completion of work on Phase I, the energy outlook of the United States and Canada changed substantially. Natural gas discoveries in Canada and in the Lower 48 States ballooned, and world oil prices moderated. With

this changed natural gas market, the ANGTS sponsors announced in April 1982 that the project would be substantially delayed.

No final certificate for Phase II was issued before proceedings came to a halt in 1983. Lately, however, changes in the market for natural gas have produced a renewed interest in constructing a pipeline system to bring Alaskan gas to the Lower 48 States. Although no application has been filed with the Commission as yet, we are aware that the original project approved in the President's Decision is being reconsidered by its sponsors and that other proposals are under discussion as well.

If the original project is reactivated by the original project sponsors, we would expect to respond to a proposal to renew their project on a timely basis. If the Commission receives an application to build alternative projects other than the one specifically authorized in the President's Decision under ANGTA, such proposals arguably would not come under the provisions of ANGTA, but would fall under section 7 of the Natural Gas Act, to the extent they would transport natural gas in interstate commerce. I believe the Commission could consider such projects on a timely basis as well. Several key issues for the review of proposals to transport Alaska North Slope natural gas are discussed below.

#### **A. Environmental Considerations**

The most time-consuming aspect of any significant pipeline construction project is the environmental analysis. The original environmental analysis of the ANGTS project was done more than 20 years ago by the Department of Interior and supplemented by the

Federal Power Commission, the predecessor of the Federal Energy Regulatory Commission (FERC). In 1980, the FERC did a second environmental impact statement to consider the environmental impacts of a gas conditioning plant that was proposed to be built as part of the ANGTS at Prudhoe Bay, Alaska. One question to be considered is whether the original environmental analyses would need to be updated, if the ANGTS were reactivated.

Because so much of the ANGTS was proposed to cross Federal land, the Department of Interior's Bureau of Land Management should be among the candidates to perform an updated environmental impact statement if one is required. The FERC would be a cooperating agency in that case. However, I would also expect significant involvement from the Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Forest Service, the U.S. Geological Survey, as well as the State of Alaska.

## **B. Role of Other Federal Agencies**

A major challenge in processing any application to build an Alaskan pipeline is the need to coordinate the roles of the various Federal agencies that have responsibility over various aspects of such a proposal. During the original ANGTS proceeding, this coordination role was performed by the Office of the Federal Inspector for the Construction of the ANGTS. At that time the Federal Inspector was vested with exclusive responsibility for enforcement of all Federal statutes relevant to construction

and initial operation of the ANGTS. This included monitoring and any other compliance or oversight activity. It also included coordinating other activities by Federal agencies.

The Office of the Federal Inspector was abolished by Congress in 1992, and those functions and authorities were transferred to the Secretary of Energy. If the original proposal is renewed by the project sponsors that hold the existing certificate, the Secretary is positioned to fulfill the coordinating and compliance functions previously vested in the Office of the Federal Inspector.

In the event of a new pipeline proposal that is not subject to ANGTA, and thus is not covered by ANGTA's provisions for a centralized Office of the Federal Inspector function, such a role could be achieved through the use of an interagency task force to help identify and deal with issues as they arise. For government review of either a renewed ANGTS project or a project proposed to be certificated under the NGA, there would need to be a great deal of cooperation and coordination among the various agencies involved to take timely action on such a monumental undertaking.

### **C. Role of Canadian Government**

Of utmost importance in the timing of any Alaskan proposal would be the cooperation and involvement of the Canadian government. In 1977, the United States and Canada entered into an executive agreement on principles applicable to the ANGTS. The agreement covers such things as routes, taxation levels, project delays, and other matters. Much time has passed since this agreement and consideration of a renewed ANGTS proposal could be affected by Canada's view of the status of the 1977

"Agreement on Principles." The Department of State will likely play a key role if this becomes a consideration.

#### **D. Need for a Complete Application**

In order for the Commission to proceed in certificating any proposal for Alaskan construction, we would need a completed application from the project sponsors that addresses the multiple issues that the Commission will be called upon to resolve. In the case of a proceeding under ANGTA, the project sponsors would need to explain whether and how their existing certificate should be modified.

Whether a new pipeline proposal were to be considered under ANGTA or under the Natural Gas Act, it would be essential for the project sponsors to file a complete and informative application that would allow the Commission to make a determination whether the project is in the public interest and consistent with applicable law. Our staff is prepared to engage in such prefiling consultations as would facilitate the filing of thoroughly developed proposals.

#### **E. Possible Need for Congressional Action**

The President's Decision, which was issued pursuant to ANGTA and approved by Congress, contains a number of conditions that on their face seem to affect directly the Commission's consideration of a renewed application to complete the ANGTS. Among other things, the President's Decision, in addition to designating the sponsors and route for the pipeline, specifies many aspects of the design, provides for a variable rate of return as an incentive to limit costs, and determines that the required environmental



impact statements relative to an Alaska natural gas transportation system have been prepared and are in compliance with NEPA. To initiate further proceedings under specifications adopted over 20 years ago could limit consideration of the proposal in ways not suited to today's market and environmental circumstances. Similarly, the Commission's ability to act pursuant to the President's Decision would be called into question if the specifications in that decision were departed from in a revised ANGTS filing. At this point, before we have had an opportunity to consider any new proposals, I cannot say with certainty which, if any, of the provisions of ANGTA or the President's Decision warrant change. It may be appropriate, however, for Congress to review the statutory requirements.

## **II. Conclusion**

In response to renewed interest in Alaska natural gas transportation, I have assembled a staff team at the Commission to review the history of the proceedings, including the statutes and relevant orders, and to assess their application to the current situation. Their work has already begun. They are also considering what aspects of the conditional certificate and related orders may need to be reconsidered in order to accommodate and process any applications that may be filed in the future. We will soon be in a position to recommend any necessary changes to the ANGTA, and to delineate issues that we expect to be significant. I have directed staff to prepare a report by the end of the year that would detail those issues, and we will submit that report to the Committee.

The Commission is committed to timely resolution of all relevant and material issues relating to proposed pipeline projects under its jurisdiction. Given the size of the investment required and the importance of the natural gas reserves in Alaska and adjacent areas, timely and responsible regulatory consideration will be especially important in the case of pipeline proposals to transport gas from the North Slope. Moreover, the ANGTA requires timeliness, and we are mindful of our obligation to give priority to such a proposal. I will do all I can to ensure that sufficient resources are devoted to the potential proposals.

I would be pleased to answer any questions you may have.